



Deposition of:
Robert Herrick , MD

November 21, 2019

In the Matter of:
**Benzene - Coppage v. U.S. Steel
Corporation**

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ROBERT F. HERRICK, Sc.D., CIH, FAIHE67

1 THE WITNESS: Yeah.

2 BY MR. CAIRONE:

3 Q. Give me five minutes to look
4 at my notes. I might be done.

5 A. Okay.

6 (Whereupon there was a recess
7 in the proceeding from 10:11 a.m. to
8 10:16 a.m.)

9 - - -
10 (Whereupon the document was
11 marked, for identification purposes,
12 as Herrick Exhibit Number 3.)

13 - - -
14 BY MR. CAIRONE:

15 Q. I have one or two questions,
16 based on these new notes. And, again,
17 without waiving my reservation of rights and
18 the motion to strike I put on the record
19 earlier, I'll ask you a question.

20 We've marked Exhibit 3, Dr.
21 Herrick, which is a copy of the three
22 typewritten pages of -- I think it's three.
23 Yes. Three typewritten pages of notes that
24 you've produced this morning. And the one

1 ROBERT F. HERRICK, Sc.D., CIH, FAIHF68
2 thing I want to ask you about is --
3 Stallings is Exhibit 2. You have a note
4 there. Do you see your notes?

5 A. I do.

6 Q. Can you read what your note
7 says?

8 A. Shown -- Is this the right
9 one? Under Stallings Exhibit 2?

10 "Shown the label of the
11 Hancolite Glaze Cleaner and says that the
12 label was on the side of the drum. Page 66,
13 1 through 10."

14 Q. So when you read page 66 of
15 Mr. Stallings' deposition, that's what you
16 took away from that, that he said the
17 Hancolite Glaze Cleaner label was on the
18 side of the drum?

19 A. I think that that's accurate.
20 Yeah. I don't have the deposition right in
21 front of me, but that's --

22 Q. Well, I do.

23 A. Okay.

24 Q. And the question is: "Okay.
Tell us what, if anything, you remember in

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2 terms of signage, labelage, anything that in
3 terms of the 55-gallon drum is similar to
what you see in Plaintiff's Exhibit 2."

4 Answer: "In addition to
5 Hanco, the other two products I mentioned,
6 they had these labels on the side of the
7 drum and on the top of the drum. They were
8 all there. They were -- all three were about
9 the same. And they were either taped on or
10 glued on, so they were readily visible,
11 visibly available. You had to be a blind
12 person not to see them."

13 Did you take that to be an
14 answer that he saw the Hancolite Glaze
15 Cleaner label on all three of the products
16 that he used?

17 A. Oh, I see what you're saying.
18 No, they weren't -- I mean, I understand the
19 question. They were not all three Hancolite
20 Glaze Cleaner. What I think was being
21 referred to in the question was some of the
22 other information that's on that label. He
23 recognized that.

24 Q. He recognized the Hanco name.

1 ROBERT F. HERRICK, Sc.D., CIH, FAIH70

2 MR. DUPONT: Objection, form.

3 BY MR. CAIRONE:

4 Q. Because in the context of the
5 rest of his testimony, he said, "I couldn't
6 identify the product and I couldn't identify
7 the number." We've already established that.
Right?

8 MR. DUPONT: Objection,
9 compound.

10 THE WITNESS: Right. What I
11 was referring to, though, is there's
12 other information on that label. And
13 my interpretation of it was that he
14 was including that. That's what he
15 was referring to.

16 BY MR. CAIRONE:

17 Q. But you're not saying that
18 that passage from the deposition means that
19 all three of these solvents had Hancolite
20 Glaze Cleaner on it. That wouldn't -- that
21 couldn't be possible. They were made by
22 different companies.

23 A. Absolutely. I wasn't trying to
24 imply that he was claiming all three of them

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2 were Hancolite glaze cleaner, no.

3 Q. Are you trying to assume from
4 this that he was saying one was?

5 MR. DUPONT: Objection, form.

6 THE WITNESS: Well, that would
7 have been -- that -- I would assume
8 that, you know, since the universe of
9 products is only three, and, you
10 know, he had mentioned that the Hanco
product was one of them.

11 BY MR. CAIRONE:

12 Q. He mentioned Hanco. Right?

13 A. Right.

14 Q. And it says Hanco on Exhibit
15 2. Right?

16 A. I don't have it in front of
17 me. I think so.

18 Q. Have you looked at Exhibit 2?

19 A. Sure. But I can't remember
20 just sitting right here now.

21 Q. But you'll agree with me that
22 in his deposition he said he could not
23 identify the product name, the Hanco product
24 name.

ROBERT F. HERRICK, Sc.D., CIH, FAI116

1 Q. So that would be yet another
2 reason why, if you had looked at these
3 documents, you would have found evidence
4 that MS-408 could not have been the Hanco
5 solvent identified by Mr. Stallings at
6 News-American and Baltimore Sun from 1960 to
7 '69, because those operations were
8 letterpress. They were not offset press.

9 Correct?

10 MR. DUPONT: Form and compound.

11 THE WITNESS: I don't know
12 that I would necessarily, you know,
13 find that to be, you know, quite so
14 conclusive. I mean, over the years
15 of doing this stuff, you know, I find
16 that people tend to use what they
17 think works and what's effective at
18 the lowest price.

19 I mean, I do take your point
20 about what the company, you know,
21 mentions here as being the intended
22 use, but I wouldn't say that that
23 rules out that people use the
24 material for a slightly different

1 ROBERT F. HERRICK, Sc.D., CIH, FAI117

1 purpose.

2 BY MS. PROSSER:

3 Q. All right. Well, I want you to
4 look at the exhibits to the Charles Graham
5 Affidavit that are all attached to Mr.
6 Adams' report. And there's some Bates
7 numbers at the bottom and you're going to
8 have to scroll through until you get to
9 H-D001996.

10 MR. DUPONT: Do you have a
11 copy for him to look at?

12 MS. PROSSER: No, he was given
13 the report. So, no, I don't have it.
14 But it's part of the exhibits to Mr.
15 Adams' report.

16 MR. DUPONT: Yeah, we
17 understand that, but he doesn't have
18 a copy in front of him and I've got
19 to use my computer.

20 MS. PROSSER: I thought you
21 had pulled it out. How can he
22 comment on --

23 MR. DUPONT: I have to use my
24 computer. I did you a favor. If you

1 ROBERT F. HERRICK, Sc.D., CIH, FAI118
2 want to take a deposition using
3 documents, it's your responsibility
4 to have the documents prepared for
the witness to look at, not mine.

5 BY MS. PROSSER:

6 Q. Do you understand that offset
7 printing, Dr. Herrick, is, you don't use
8 raised letters like you do on the
9 letterpress, but you use plates that have an
10 image on them?

11 A. I do understand that, yeah.

12 Q. Okay. I'm going to read you
13 from the exhibit to Mr. Graham's Affidavit
14 attached to Mr. Adams' report at H-D001996.
15 And it's a brochure about a Handschy
16 product. This was attached to Mr. Graham's
17 Affidavit. And it says at the top, MS-408
18 Hancolite. And it says --

19 MR. DUPONT: Counsel, you're
20 going to have to hold on for a
21 second.

22 Which Bates number are you
23 referring to?

24 MS. PROSSER: D001996. And

Page 119

1 ROBERT F. HERRICK, Sc.D., CIH, FAI119
it's part of exhibit -- Hold on.

2 MR. DUPONT: 1196?

3 MS. PROSSER: 1996. 1996.

4 So if you go to the Graham
5 Affidavit, and then you go to his
6 exhibits to that, there's an Exhibit
7 E that has to do with the 408.

8 They're all documents related to 408.
9 Are you looking for it?

10 MR. DUPONT: Okay. I'm at
11 Bates Number 1996.

12 BY MS. PROSSER:

13 Q. Okay, so at the very top,
14 Doctor, it says, "MS-408 Hancolite." And the
15 last sentence -- feel free to review the
16 whole paragraph, but I'm going to ask you
17 about the last sentence.

18 It says, "It," meaning MS-408
19 Hancolite, "will remove unwanted images on
20 deep etch plates."

21 Now, images on deep edge
22 plates is an offset printing procedure, not
23 a letterpress printing procedure. Correct?

24 MR. DUPONT: Form, lacks

Page 120

1 ROBERT F. HERRICK, Sc.D., CIH, FAI120
2 foundation.

3 THE WITNESS: Sure. Yes.

4 BY MS. PROSSER:

5 Q. Okay. So that is yet another
6 reason that MS-408 could not have been the
7 Hanco solvent that is identified by Mr.
8 Stallings because, according to the
9 documents for Handschy, MS-408 was an offset
printing chemical. Correct?

10 MR. DUPONT: You're
11 misrepresenting what this document
12 says.

13 THE WITNESS: I'm just trying
14 to, you know, look through, you know,
15 the range of information. And at the
16 head of this, you know, product
17 description, it says, "A powerful
18 combination of solvents with so many
19 uses that not to have it available
20 means frustration and loss of time."

21 So I try, you know, to kind
22 of, you know, take this information
23 for what it's worth. And, you know,
24 it looks to me like the company, you